

**REMARKS**

Claims 1-26 and 31-36 were pending in the application. Claims 1-25 and 31-33 have been amended. Claims 37-40 have been added, and no additional claims have been canceled. Support for new claim 37 may be found in original claims 1, 17, and 24. Support for new claims 38 and 40 may be found, e.g., in Fig. 1 of the present application. Support for new claim 39 may be found, e.g., on page 1, lines 24-25. Therefore, claims 1-26 and 31-40 are now pending in the present application. Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Allowable Subject Matter**

The Examiner is sincerely thanked for indicating that claims 34-36 are allowed and that claims 11-13, 17-24, and 26 contain allowable subject matter.

**Rejections**

Claims 1, 4, 8, and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,023,378 to Schaenzer (hereinafter “Schaenzer”). Claims 1-10, 14-16, 25, and 31-33 are rejected under 35 U.S.C. §103(a) as being unpatentable over Schaenzer in view of U.S. Patent No. 5,859,727 to Tsuchiya (hereinafter “Tsuchiya”) and U.S. Patent No. 6,407,884 to Osborne et al. (hereinafter “Osborne”), and in view of the acknowledged prior art of the instant specification.

Claim 1 has been amended to positively claim that which was previously in the preamble: the imaging optical system is configured to generate optical contrasts in the near-field representation of topographies of the object. None of the cited references teaches, suggests, or discloses this feature. Tsuchiya discloses an objective unit configured to image a sample 1 through a cover glass 30, which directly contacts the sample 1 through a sample-mounting surface 29. (Fig. 1 and col. 2, lines 14-19.) At best, Tsuchiya discloses two-dimensionally imaging the sample 1—i.e., imaging the sample 1 at the planar sample-mounting surface 29. Tsuchiya does not teach, suggest, or disclose imaging topographies of

the sample 1, or generating optical contrasts in the near-field representation of topographies of the sample 1. Both Schaenzer and Osborne are addressed to optical data storage systems with optical heads. Neither reference is concerned with, or even suggests, imaging topographies of objects, or generating optical contrasts in the near-field representation of topographies of objects. Therefore, claim 1, and all claims dependent therefrom, are believed to be patentable over the cited prior art. Withdrawal of the rejections is respectfully requested.

**New Claim**

New claim 37 incorporates features from claims 1, 17, and 24, of which claims 17 and 24 were indicated as containing allowable subject matter. Therefore, new claim 37 is believed to be allowable over the cited prior art.

New claims 38-40 contain further patentable features and are believed to be patentable over the cited prior art for at least the same reasons as claim 1.

**Conclusion**

Applicants believe that the present application is in condition for allowance, and favorable reconsideration is requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

12/8/03  
Date

FOLEY & LARDNER  
Customer Number: 22428



22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5300  
Facsimile: (202) 672-5399

Glenn Law 50, 443  
Glenn Law  
Attorney for Applicant  
Registration No. 34,371